

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RR, A MINOR, BY AND
THROUGH HER PARENTS,
BMR AND KR

Plaintiff

v.

ACT, INC.

Defendant

Civ. No. **12-CIV-0314**

**PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION,
MEMORANDUM OF LAW,
DECLARATIONS AND
EXHIBITS IN SUPPORT
THEREOF**

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Plaintiff, RR present herein this Motion for Preliminary Injunction, Memorandum of Law, Declarations and Exhibits in support thereof and prays as follows:

1. Plaintiff commenced a civil action ("Complaint") on January 13, 2012 against the ACT, Inc. (Defendant) for violations of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §12101, et. seq. The Complaint is incorporated herein by reference as if set forth fully herein at length.

2. Plaintiff is requesting reasonable accommodations when taking the February 11, 2012 administration of the ACT examination ("ACT") because she is affected by learning disabilities, including a developmental reading disorder and a cognitive disorder.

3. Plaintiff is substantially limited in the major life activities of reading, cognitive thinking, processing written material at the same rate as most people and which also impairs her ability to demonstrate her true aptitude ability when taking the ACT.

4. Plaintiff has provided Defendant with considerable documentation, which establishes that she is a person with a disability and that she has received accommodations of extended time on tests throughout her entire education and on standardized examinations similar to the ACT examination.

5. By denying Plaintiff's request for accommodations on the ACT, Defendant has violated the ADA and unlawfully discriminated against Plaintiff.

6. By letter from dated January 11, 2012, from counsel for Plaintiff to Defendant's representative, counsel requested a reconsideration of Defendant's December 17, 2011 denial of Plaintiff request for accommodation. Accompany counsel's letter was additional documentation supporting the need for accommodations. Defendant's representative advised counsel that Defendant would respond to counsel's letter in two weeks. Defendant has failed or refused to respond to counsel letter.

7. Plaintiff, pursuant to Fed. R. Civ. P. 65, respectfully moves this Honorable Court to grant a preliminary injunction requiring Defendant to provide her with the reasonable accommodation of 50% (or time and a half) extended time on all sections of the ACT.

8. Because the test is scheduled for Saturday, February 11, 2012, and because of the extreme prejudice and irreparable harm that Plaintiff will suffer if she is not accommodated on the ACT, she now seeks an Order from this Court granting her motion to compel the Defendant to provide the requested reasonable accommodation.

9. There is no adequate relief available at law.

10. In support of this Motion, Plaintiff submits the annexed Memorandum of Law; Declarations and Exhibits, which are incorporated by reference.

WHEREFORE, for the reasons stated in the Complaint which are incorporated by reference as if fully set forth herein, along with the attached Memorandum, Exhibits and Declarations, Plaintiff respectfully requests that this Court grant her motion for injunctive relief by compelling the Defendant to provide the requested reasonable accommodation.

Respectfully submitted,

Date: 2-6-2012

/s/ Geoffrey S. Berman

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